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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,959	02/14/2002	Ralph R. McDonald	3842-A1	9824

7590

03/17/2004

Robert A. Parsons
PARSONS & GOLTRY
Suite 260
340 East Palm Lane
Phoenix, AZ 85004

EXAMINER

GIBSON, RANDY W


ART UNIT

PAPER NUMBER

2841

DATE MAILED: 03/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/075,959	Applicant(s)  MCDONALD, RALPH R.	
	Examiner Randy W. Gibson	Art Unit 2841	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on February 17, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. In view of the applicant's remarks, it appears that the examiner's previous interpretation of claim 20 was incorrect. Therefore the examiner's previously indicated allowability of claim 20 was incorrect since claim 20 does not expressly contain the limitation that the examiner thought it did upon its first reading. The delay in making this rejection is regretted

Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new grounds of rejection, *infra*.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 8-13 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones (US # 2,974,518). Jones discloses a conveyor (2) with a weighing system that is "capable of" continuously sensing a load on the conveyor (Col. 3, line 64 to col. 4, lines 20), and a calibration system (16) that is "capable" of selectively applying a reference load (32,38) without interrupting the ability of the weighing system to sense a load on the conveyor (Col. 4, line 38 to col. 5, line 12).

4. Claims 1-3, 7-8, 14, 15, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson et al (US # 3,976,150). Wilson et al disclose a conveyor (12) with a weighing system (20) that is "capable of" continuously sensing a load on the conveyor (Col. 2, line 50 to col. 3, line 5), a calibration system (15) that is "capable" of selectively applying a reference load (14) without interrupting the ability of the weighing system to sense a load on the conveyor (Col. 3, lines 5-24), and a "comparator"/"controller" (60) for comparing the sensed load to a reference load (Col. 5, lines 5-65). Obviously the "storage" for storing load data is inherently part of the computer (60) since every computer has to have a working memory in order to be operative. See *In re Napier*, 55 F.3d 610, 613, 34 USPQ2d 1782, 1784 (Fed. Cir. 1995); and, *MPEP* § 2112.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-7, 14, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (US # 2,974,518) in view of Wilson et al (US # 3,976,150). Jones discloses the claimed invention, as discussed *supra*, except for the "comparator"/"controller" and the data "storage". The system of Jones relies upon a mechanical indicator which is manually adjusted. However, Wilson et al shows that it is known to use digital control system calibrate and correct weight readings as discussed *supra*. It would have been obvious to the ordinary practitioner to upgrade the system of

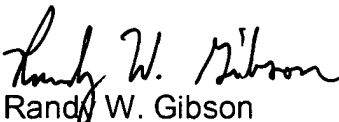
Jones to include a digital controller, as suggested by the example of Wilson et al, to improve accuracy and reliability of the device.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (571) 271-2103. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David S Martin can be reached on (571) 272-2107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Randy W. Gibson
Primary Examiner
Art Unit 2841